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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,723	04/16/2004	Sam Jones	APTC-1-1002	9945

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EXAMINER

STERLING, AMY JO

ART UNIT PAPER NUMBER

3632

DATE MAILED: 01/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/825,723	Applicant(s) JONES, SAM	
	Examiner Amy J. Sterling	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 24-26 is/are pending in the application.
- 4a) Of the above claim(s) 9,11 and 24-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8,10,12 and 13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This is the **Final Office Action** for application number 10/825,723 Adjustable Woodworking Stand, filed on 4/16/04. Claims 1-13 and 24-26 are pending. Claims 9, 11 and 24-26 are withdrawn. This **Final Office Action** is in response to applicant's reply dated 10/20/05. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Applicant's amendment necessitated any new ground(s) of rejection presented in this Office action.

### ***Election/Restrictions***

The applicant orally elected species I, over the phone on 6/8/05, which includes Figures 1-3. Applicant was required to acknowledge the election of species in the reply filed on 10/20/05, but failed to do so. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Newly amended claims directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits.

The supporting member being a "tray" (claim 9) was not included in the species as elected.

The supporting member being a "bearing table" (claim 11, shown by Figure 4) was not included in the species as elected.

Accordingly, claims 9 and 11 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the

"cylindrical void" (claim 1)

must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

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Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claim 1 is objected to because of the following informalities:

Claim 1 recites, "retangular" in line 2, which appears to be a typographical error for "rectangular".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-8, 10, 12 and 13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1 recites a "cylindrical void" in line 6, and the specification does not adequately teach that the second tubular member has a void which is "cylindrical". In

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fact the drawings teach that the void has a square cross section. The addition of such a limitation which was not originally disclosed constitutes new matter and must be cancelled from the claims.

Claim 13 recites, that the wingnut "includes at least four wings". The specification does not adequately teach this concept. In fact the drawings appear to teach that there are three "wings". The addition of such a limitation which was not originally disclosed constitutes new matter and must be cancelled from the claims.

Claims 1-8, 10, 12 and 13 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites, "a retaining pin" and it is unclear if this is the same as the "cotter pin" 178.

Claim 1 recites, "the interior wall" in line 18. There is insufficient antecedent basis for this limitation in the claim. Furthermore, it is unclear as to what interior wall, the claim is referring.

Claim 3 recites, "the legs" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the limitation "the biasing member" in line 3. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

As best understood, in view of the rejections above.

Claims 1-5, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 6305117 to Hales, Sr.

Hales, Sr. discloses an adjustable stand (10) having a first tubular member (30, 20) having a rectangular/square cross-section and an upper and lower end, a second tubular member (32) having a rectangular/square cross-section and configured to nest telescopically within the first tubular member and being adjustably secured to the first member, the second member having an interior wall defining a cylindrical void and having an axis, an upper end and a lower end, the upper end of the second member extending above the upper end of the first member in nested arrangement, a threaded shaft (33) having a shaft axis and situated within the void and such that the shaft axis extends along the axis, a fine adjustment mechanism (35) which is a nut in threaded engagement with the threaded shaft, the nut configured to bear against the upper end of the second member, and a retaining pin (21) passing through the first tubular member, used to prevent transverse rotation of the tubular member. Hales, Sr. teaches wherein the first tubular member (20, 30) has a hinge (118, 120 See Figure 8) including a plurality of pivot pins (110) configured to engage a leg to provide a stable base to the stand. Hales, Sr. also teaches a course adjustment mechanism (37) coupled between the first and second tubular members which is a screw rotatably secured to the first tubular member, the screw having an end selectively bearing against the second tubular member and a biasing member (61) arranged in opposed relation to the nut relative to

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the second tubular member and a support member (34) in opposed relation to the biasing member relative to the nut.

Hales, Sr. does not show a retaining pin passing through the threaded shaft member, but it would have been obvious to one of ordinary skill in the art to have used the retaining pin as taught by Hales, Sr. to prevent rotation in the threaded shaft as well as in the tubular member, for steadying the desired device.

Claims 6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 6305117 to Hales, Sr. as applied to claims 1, 3-5, 7 and 8 above, and in view of United States Patent No. 2336104 to Laube et al.

Hales, Sr. discloses applicant's basic inventive concept, all the elements which are shown above with the exception that it does not show that the course adjustment mechanism has a friction pad between the first and second tubular member opposite the screw and wherein the supporting member is an outfeed roller assembly.

Laube et al. teaches a first and second tubular members (37, 42) slidably engaged to each other, with a course adjustment mechanism having a screw (48), and a friction pad (44) between first and second member opposite the screw (48), used in order to protect the member from screw markings during use. Laube et al. also teaches a support member (C) which is an outfeed roller assembly, used for adjusting the device. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Laube et al. to have added a



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friction pad, in order to prevent damage to the tubular members during use and to have used the roller assembly in order to adjust the supporting member.

Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 6305117 to Hales, Sr. as applied to claim 1 above, and in view of United States Patent No. 5297779 to Collins, Jr. et al.

Hales, Sr. discloses applicant's basic inventive concept, all the elements which are shown above with the exception that it does not show that the nut is a wingnut with at least four wings.

Collins, Jr. et al. teaches a wingnut (54), used so that the user may easily turn it. Any amount of wings would be an obvious design choice, used to easily turn the device. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention from the teachings of Collins, Jr. et al. to have selected a four winged wingnut so that the fine adjustment might be easily turned.

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action. Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 571-272-6823. The examiner can normally be reached (M-F 8 a.m.-5:00 p.m.). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached at 571-272-6788. The fax machine number for the Technology center is 571-273-8300 (formal amendments) or 571-273-6823 (informal amendments and communications). Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 571-272-3600.



Amy J. Sterling

1/7/06